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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/827,634	04/09/1997	STEVEN R. BOYE	22043-0706	3941

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DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P.
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

EXAMINER
BASHORE, WILLIAM L

ART UNIT	PAPER NUMBER
2176	

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 March 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5 and 8-19* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 8-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____ .

DETAILED ACTION

1.   This action is responsive to communications: amendment filed 3/17/2003, and letter filed

3/26/2003, to the original application filed **4/9/1997**.

2.   Claims 1-5, 8-19 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

3.   Claims 1-5, 10-19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Templeman

and Nielsen.

4.   Claim 9 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Templeman,

Nielsen, and Lemay.

5.   Claims 1-5, 8-19 are pending. Claims 1, 10-12 are independent claims.

Claim Rejections - 35 USC § 112

6.   **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7.   **Claims 1-5, 8-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for**

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

        In regard to independendent claims 1, 10, 11, 12, the phrase regarding a layout as *"susceptible*

to influence" by browser configuration, in each of said claim is vague and indefinite. It is unclear if said

claimed layout is actually being influenced.

In regard to dependent claims 2-5, 8-9, 13-19, claims 2-5, 8-9, 13-19 are rejected for fully

incorporating the deficiencies of their respective base claims, as explained above.

Examiner's Note

The following claims are rejected based upon a possible interpretation of the phrase "*susceptible*

to influence", as a layout influenced by browser configuration.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if
> the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would
> have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1-5, 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Templeman, U.S. Patent No. 5,845,303 issued December 1998, in view of Nielsen, U.S. Patent No.

5,897,644 issued April 1999 (previously cited reference).

In regard to independent claim 1, Templeman teaches a display system utilizing the merging of

content into a set of display frames, said frames organized into metaforms for presenting said content in

various preferred formats, intended to preserve the original content presentation style (i.e. newsletters,

reports, business letters, etc.). The system uses information about the input data to determine a (preferred)

display format for said data (Templemen Abstract, column 3 lines 15-43; compare with claim 1 "*A*

method for preserving a preferred presentation....comprising").

Templeman teaches obtaining obtaining a layout of display elements (Templeman column 3 lines 15-25). The use of elements on a web page would have been obvious to one of ordinary skill in the art at the time of the invention, because Templeman teaches that the hierarchical tagging of its system permits importation of HTML formatted data, suggesting an HTML embodiment, and providing the advantage of a popular type of document presentation utilized on computers such as PDA's, as well as the Internet (Templeman column 1 lines 34-36, column 3 lines 40-43, column 7 lines 62-67) (compare with claim 1 "*obtaining a layout of display elements on a web page*").

Templeman teaches analyzing input content data for merging onto an appropriate (preferred) frameset (Templeman column 3 lines 15-25, 28-40). Templeman teaches an originally authored tag within the received content for identifying to the system the appropriate (preferred) form to use, in the present case, a newsletter style frameset (Templeman column 5 lines 30-56, column 8 lines 60-65, Figure 3A). It is noted that said newsletter frameset (Figure 3A) incorporates two main body columns, separated by a main vertical split which is determined by the template. This can be interpreted as a primary split direction, said split direction typical of many newsletters and newspapers. (compare with claim 1 "*determining, using a first computer system....on said one or more second computer systems*", and "*determining splits of the web page, in the primary split direction*").

Templeman does not specifically teach said layout presentation influenced by browser configuration. However, Nielsen teaches a transformation that transforms a web page (preserving an aspect ratio), for display in an HTML processing application (i.e. a web browser) in output devices of differing sizes (Nielsen Abstract, column 3 lines 31-50, column 7 lines 19-65; compare with claim 1 "*said layout is susceptible to influence by browser configuration*"). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Nielsen to Templeman, providing Templeman the benefit of web page display resizing within Templeman's relationship constraints (Templeman column 8 lines 41-48) in web browsers for fitting various sized devices (i.e. laptops, PDAs, etc.).

In regard to dependent claim 2, Templeman teaches a metaform which can be selected by a user (Templeman column 5 lines 45-49).

In regard to dependent claim 3, Templeman does not specifically teach locking the size of text. However, Nielsen teaches transforming a web page utilizing an aspect ratio, including a "Transform Font Size" procedure for transforming a font size (Nielsen column 9 lines 13-27). From the point of view of the original web page, Nielsen "locks" the various fonts within the constraints of a determined transformation, so as to preserve the various ratio of font sizes as originally intended, when the altered web page is shown. It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Nielsen to Templeman, providing Templeman the benefit of locking font sizes of a page within determined transformation formulas, in order to preserve certain visual content characteristics within pages on displays of differing sizes.

In regard to dependent claim 4, Templeman teaches a newsletter template frameset (Templeman Figure 3A), used for displaying the newsletter of Templeman Figure 1A (see also Templeman column 5 lines 30-36), said newsletter displaying locations of determined splits, as defined by said frameset.

In regard to dependent claim 5, Templeman teaches a template newsletter frameset primarily showing two columns in accordance with a single vertical center split, as dictated by said template (Templeman Figures 1A, 3A).

In regard to dependent claim 8, a publish request from a user would have been obvious to one of ordinary skill in the art at the time of the invention, because entering a URL and pressing <ENTER> in a typical web browser is interpreted as a signal to a server to fetch (publish) a web page onto the screen of said browser. In addition, various buttons typically shown on a browser (i.e. Home/Reload buttons, as well as bookmark lists) substantially serve the same function. Providing a publish request provides Templeman the benefit of performing transformations at a convenient time for a user.

In regard to independent claim 10, claim 10 reflects the system comprising computer readable instructions used for performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to independent claim 11, claim 11 reflects the computer readable storage medium comprising computer readable instructions used for performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to independent claim 12, claim 12 reflects the system comprising computer readable instructions used for performing the methods as claimed in claim 1, and is rejected along the same rationale.

In regard to dependent claims 13, 14, Templeman teaches a metaform (template) can be selected by a user. Since Templeman teaches metaforms existing for various types of presentations (i.e. newsletters, reports, business letters, etc.) with differing display properties, selection of various metaforms includes selection of various split directions within said metaforms (Templeman column 3 lines 29-40, column 5 lines 45-49; compare with claim 13).

Templeman teaches a default vertical split direction within a newsletter template frameset (Templeman Figure 3A; compare with claim 14)

In regard to dependent claim 15, Templeman teaches a vertical split direction within a newsletter template frameset (Templeman Figure 3A).

In regard to dependent claims 16, 17, Templeman teaches a newsletter template frameset comprising various vertical and horizontal splits (Templeman Figure 3A). Templeman lays content into the various dynamically sized frames of said frameset divided by various splits (Templeman column 3 lines 15-26, column 8 lines 14-38, 42-48, column 9 lines 4-14).

In regard to dependent claims 18, 19, Templeman and Nielsen teaches a newsletter page displayed with splits analogous to the newsletter template frameset (Templeman Figures 1A, 3A; compare with claim 18).

Templeman teaches a newsletter frameset, the sizes and constraints of frames within said frameset are dynamically and independently calculated (Templeman column 3 lines 20-26, column 8 lines 40-49, 60-65, column 9 lines 25-34; compare with claim 19).

10.   **Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Templeman, U.S. Patent No. 5,845,303 issued December 1998, in view of Nielsen, U.S. Patent No. 5,897,644 issued April 1999, and further in view of Lemay, Laura (hereinafter Lemay), Teach Yourself Web Publishing with HTML in a Week, Sams Publishing, 1995, pp. 306, 346, 348 (previously cited reference).**

In regard to dependent claim 9, Templeman does not specifically teach a preview request.
However, Lemay teaches an HTML writer utilizing a Test (preview) button (Lemay p. 348). It would
have been obvious to one of ordinary skill in the art at the time of the invention to apply Lemay to
Templeman, providing Templeman the benefit of previewing a page after importation of HTML data, to
see if said importation was successfully integrated (see also Templeman column 7 lines 62-67).

Response to Arguments

11.   Applicant's arguments filed 3/17/2003 and 3/26/2003 have been fully and carefully considered
but they are not persuasive.

Applicant argues on pages 5-6 of the amendment that the claimed phrase *"susceptible to
influence"* does not make the claim indefinite (see paragraph 7 above). The examiner respectfully notes
that, even with Applicant's definition in mind, the scope of said phrase is unclear. The examiner interprets
Applicant's definition of susceptible *"accessible or especially liable or subject to some influence, mood,
agency, etc."* (along with the alternative definitions of "susceptible" as defined in Exhibit 1 – filed
3/36/2003), as at least having a predisposition to an event. Therefore, the claimed phrase in question can
be interpreted as likely to be influenced (i.e. liable or subject to influence). It does not necessarily mean
that the layout will be influenced by a browser configuration. Instead, it means that said layout is
"subject" to influence. In an analogous situation, the examiner respectfully notes that the phrase
"trespassers are susceptible to prosecution" can mean that trespassers are indeed candidates for
prosecution, however, it does not mean prosecution <u>will</u> occur. The indefinite meaning of "susceptible"
renders the scope of said limitation unclear.

Applicant argues on pages 7-8 of the amendment that Templeman does not teach or suggest

determining both a primary direction of splits on a web page and the splits themselves, in that primary

direction. Applicant asserts that the splits and directions in Templeman are pre-defined. The examiner

respectfully notes that Templeman's invention comprises the use of various templates. Even if pre-

defined column/row constraints are considered for each template (i.e. a newsletter), the primary split

number and direction has been determined (or pre-determined) by at least the designer of said template on

a *"first computing system"* using Templeman's invention. It is respectfully noted that the templates are an

integral part of Templeman's invention, which are created and designed accordingly.

Applicant argues on pages 8-9 of the amendment that Nielsen does not teach the claimed

limitation of a layout presentation susceptible to influence (as interpreted by the examiner) by browser

configuration. The examiner respectfully notes that Nielsen takes an original web page (i.e. a final web

page from Templemen's invention) and resizes said page accordingly, pursuant to changes in browser

configuration (i.e. browser display size). Since the font for said web page can be considered a default font

size, the resizing by Nielsen changes the size of the text, therefore the appearance of the font changes.

Applicant argues on page 9 of the amendment that examiner is using personal knowledge, or

taking Official Notice with respect to a primary split direction. The examiner respectfully notes that

"Official Notice" has not been explicitly stated in the rejection, as noted by MPEP 2144.03 - *"If the*

knowledge is of such notorious character that official notice can be taken, it is sufficient so to state.". The

examiner bases his reasoning on the following; Templeman teaches a newsletter frameset (Figure 3A)

incorporating two columns, separated by a blank vertical area. Newspapers and newsletters with multiple

columns of text have been in common use since the last century. Higher numbers of columns used in a

newspaper equates to a greater amount of knowledge presented, therefore it is generally advantageous for

a newspaper designer to use as many columns of text as practically and aesthetically possible within said

newspaper. Since newspaper columns are generally vertical, said columns typically separated by vertical

areas of white space ("splits" for visually defining each column), the newspaper designer can interpret

these columns (and/or their vertical white space columns) as "primary splits".

Applicant argues on page 10 of the amendment that the cited references do not teach an internal

representation of a web page. The examiner respectfully notes that Templeman teaches a template

newsletter frameset primarily showing two columns in accordance with a single vertical center split, as

dictated by said template.

Applicant argues on pages 10-13 of the amendment that the Office Action does not provide the

requisite motivation, and that the examiner uses impermissible hindsight reconstruction of the instant

claims. The examiner respectfully notes that Nielsen provides Templeman the benefit of web page display

resizing within Templeman's relationship constraints in web browsers for fitting various sized devices

(i.e. laptops, PDAs, etc.). In other words, the user is provided with the advantage of a complete web page

regardless of its display size. It is respectfully submitted that hindsight reconstruction is not used in the

instant rejections.

Conclusion

12.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set

forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing

date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

13.   Any inquiry concerning this communication or earlier communications from the examiner

should be directed to William Bashore whose telephone number is **(703) 308-5807.** The examiner can

normally be reached on Monday through Friday from 11:30 AM to 8:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Heather Herndon, can be reached on **(703) 308-5186.**

Any inquiry of a general nature or relating to the status of this application should be directed to

the Group receptionist whose telephone number is **(703) 305-3900.**

14.   **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 746-7239 (for formal communications intended for entry)
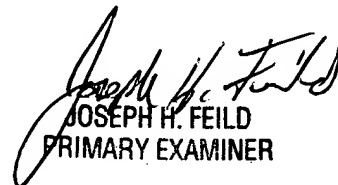**or:**

(703) 746-7240 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")
or:

(703) 746-7238 (for after-final communications)

**Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Fourth Floor (Receptionist).**

JOSEPH H. FEILD
PRIMARY EXAMINER

William L. Bashore
May 30, 2003